

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
BLUEFIELD DIVISION**

MICHAEL LEE WHITE,

Plaintiff,

v.

CIVIL ACTION NO. 5:21-cv-00619
JUDGE _____

UNITED STATES DEPARTMENT
OF VETERANS AFFAIRS and
CARMIE EDWARD ESTEP, JR.,

Defendants.

COMPLAINT

Now comes the Plaintiff, Michael Lee White (hereinafter “Plaintiff White”), by and through his counsel, Robert A. Campbell, Brian E. Bigelow and the law firm of Farmer, Cline & Campbell, PLLC, and hereby states for his cause of action against Defendants, the United States Department of Veterans Affairs and Carmie Edward Estep, Jr., (hereinafter “Defendant Estep”), as follows:

Nature of the Action

1. This is an action against the United States Department of Veterans Affairs under the Federal Tort Claims Act, 28 U.S.C. §§ 2671, et seq., and Defendant Estep, individually, for damages sustained as a result of the automobile collision between Defendant Estep and Plaintiff White on December 2, 2019, in Raleigh County, West Virginia.

The Parties

2. The Plaintiff, Michael Lee White, is a resident of Mebane, North Carolina.
3. Defendant, Carmie Edward Estep, Jr., is a resident of Glen Fork, West Virginia.

4. Upon information and belief, Defendant Estep was at all relevant times an employee or agent of the United States Department of Veterans Affairs.

5. The United States Department of Veterans Affairs is an independent establishment of the Executive Branch of the United States Government.

Jurisdiction and Venue

6. This Court is vested with jurisdiction pursuant to 28 U.S.C. § 1346(b) in that this action arises under the Federal Tort Claims Act, 28 U.S.C. §§ 2671, et seq.

7. Venue is proper in this court as the acts and omissions complained of in this action occurred in Raleigh County, West Virginia, which is within the Southern District of West Virginia.

8. Upon information and belief, Defendant Estep, at all times relevant hereto, was an employee of the United States Department of Veterans Affairs working in Raleigh County, West Virginia. He was engaged in his employment individually and as an agent, servant, or employee of the United States Department of Veterans Affairs. All actions and omissions alleged in this Complaint were committed by Defendant Estep within the scope of his agency and/or employment relationship with the Department of Veterans Affairs and, as such, Defendant United States is liable for all negligent actions and omissions of Defendant Estep.

Negligent/Reckless Conduct

9. Plaintiff incorporates by reference all preceding allegations contained in this Complaint.

10. On December 2, 2019, Plaintiff White was the driver of a Ford Taurus traveling north on WV Route 16/Robert C. Byrd Drive in Beckley, Raleigh County, West Virginia.

11. Defendant Estep, at that same date and time, was operating a Chevrolet Express van also traveling north on WV Route 16/Robert C. Byrd Drive in Beckley, Raleigh County, West Virginia behind Plaintiff White.

12. At that time and place, Plaintiff White engaged his left turn signal and slowed the Ford while yielding to motorists traveling in the opposite direction in the southbound lanes of WV Route 16/Robert C. Byrd Drive and was coming to a stop intending to complete a left turn into the parking lot of Vecellio & Grogan.

13. Defendant Estep approached Plaintiff White from behind, failed to stop and negligently caused the Chevrolet Express van to collide with the rear of the Ford Taurus operated by Plaintiff White.

14. Defendant Estep, as an operator of a vehicle on a public roadway in West Virginia, owed a duty to the general public and to Plaintiff White to: not follow another vehicle too closely; keep a proper lookout; maintain control of the vehicle he was operating; control his speed as necessary to refrain from colliding with another motor vehicle; and, to otherwise conduct himself as a reasonably prudent person.

15. Defendant Estep breached his duty by following Plaintiff White too closely, failing to maintain control of the vehicle he was operating and colliding with the Ford Taurus operated by Plaintiff White.

16. Defendant Estep's negligent, careless, reckless, wilful and/or wanton conduct proximately caused the incident described herein.

17. No acts or failures to act by Plaintiff White caused or contributed to the incident described above.

18. Defendant United States of America, via the United States Department of Veterans Affairs, is vicariously liable, pursuant to theories of principal/agency and *respondeat superior*, for all wrongful actions and omissions committed by its agents and employees, including Defendant Estep.

19. Plaintiff White, as a direct and proximate result of Defendant Estep's wrongful conduct and the collision described above, suffered serious injuries to both his body and mind.

20. As a proximate result of these injuries, Plaintiff White has incurred, and will incur in the future, general and special damages, including but not limited to:

- (a) past incurred medical expenses;
- (b) past pain and suffering;
- (c) future medical expenses;
- (d) future pain and suffering;
- (e) physical limitations;
- (f) diminished capacity to enjoy life;
- (g) annoyance and inconvenience; and
- (h) other consequences and damages associated with his injuries as may be specified as this action progresses.

WHEREFORE, Plaintiff, Michael Lee White, requests he be awarded judgment against Defendants in this action, for:

- a. All compensatory damages;
- b. All costs and attorneys' fees incurred in this action;
- c. All pre-judgment and post-judgment interest allowed by law; and

d. All other damages and relief permitted by law.

PLAINTIFF DEMANDS A JURY TRIAL ON ALL ISSUES SO TRIABLE

MICHAEL LEE WHITE,

Plaintiff,

BY COUNSEL:

/s/ Brian E. Bigelow

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